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Information circular*

To: Members of the staff

From: The Under-Secretary-General for Human Resources

Subject: **Conflict resolution in the United Nations Secretariat**

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* The present information circular will be in effect until further notice.

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I. Introduction

1. The purpose of the present information circular is to inform staff of the means available to them to address and resolve conflict situations that may arise in the workplace. Conflict can be defined as any opposition or difference of wishes, needs, statements, arguments, actions or principles between two or more staff members, or between staff members and the Organization. Conflict is a natural yet also manageable phenomenon that can occur in any organization and that can and should be handled professionally and in good faith. The United Nations is dedicated to achieving a productive working environment for everyone by creating a fair and equitable workplace where the rights of staff members are honoured and where channels are available to address their concerns.

II. Prevention, communication and training

2. The avenues of recourse described in this circular are, by their nature, reactive: they are designed to address conflicts that have already arisen. Ideally, however, any contentious issue should be resolved at an early stage by the staff members and managers involved, without the need to resort to recourse procedures to clarify or enforce rights and obligations. In the first place, therefore, emphasis should be placed on prevention.

3. Prevention of conflict is closely connected to the conduct of, and working relationships between, staff members. In this regard, the Organization places the highest expectations on its staff. The standards of conduct adopted by the International Civil Service Commission in 2001[1] provide a discussion of these expected standards to help staff understand their role as international civil servants. Pursuant to these standards of conduct, staff members must respect all persons equally, without any distinction whatsoever, in order to foster a climate and working environment sensitive to the needs of all. In the context of working relations, managers and supervisors bear particular responsibility for ensuring a harmonious workplace based on mutual respect by, among other things, being open to all views and opinions, providing support to their staff and communicating effectively with them.

4. While each potential conflict has its unique circumstances, conflict may result from a lack of supervisory and managerial skills, a lack of communication or a lack of understanding of rights and obligations. Proper training can therefore assist all staff members in preventing and solving conflicts in the workplace. The Specialist Services Division of the Office of Human Resources Management offers programmes to develop the ability of staff members to work effectively in a multicultural environment by building essential skills in communication, problem-solving, collaborative negotiation, teamwork and mediation. Staff members, especially managers, are strongly encouraged to follow at least one course. Staff should consult the *Staff Development Guide* (published annually) or the Intranet site of the Office of Human Resources Management[2] for more details.

[1] See annex V to the Secretary-General's Bulletin on the status, basic rights and duties of United Nations staff members (ST/SGB/2002/13).

[2] Located at Intranet un.org/ohrm/training/sdptoc.htm.

5. For a better understanding of their rights and obligations, staff can access the electronic *Human Resources Handbook*,[3] which provides an online collection of regulations, rules, administrative issuances and guidelines relating to human resources issues. Staff wishing to research in more detail or simply be informed about legal issues pertaining to their rights and duties can access the electronic *Case and Jurisprudence Digest of United Nations Administrative Tribunal Judgements*.[4] The Panel of Counsel web site (http://www.un.org/staff/panelofcounsel) also has general information on the appeals and disciplinary processes.

III. Informal resolution

6. Staff members who are involved in conflict situations are encouraged first to seek an informal solution. They may find informal means to be preferable in that they may yield results more quickly than formal ones, or may even lead to a positive negotiated outcome that could, for various reasons, not be achieved through a formal process.

7. Staff members may attempt to solve any problems related to their employment with the United Nations, including relations with colleagues and supervisors, through the informal means listed below. In general, the scope of issues that staff members may attempt to solve through informal means is wider than that which can be addressed through formal methods, which are rights-based and, by definition, may not be able to fully address the concerns underlying the conflict.

8. Recourse to an informal method does not preclude staff from also following the formal recourse methods if attempts to reach an informal solution fail. Staff members should inform themselves of the requirements of the appropriate recourse method, since the initiation of proceedings through formal mechanisms generally involves a time limit, which must be observed. If an informal process is pending, this may be grounds for an extension of the time limit. Conversely, recourse to a formal method does not preclude staff from pursuing a resolution or settlement through informal means while formal proceedings move forward.

A. Supervisors/Human Resources Officers/Executive Officers

9. Supervisors, Human Resources or Personnel Officers as well as Executive Officers can assist staff in resolving conflicts, including by referring them to other staff members who have been trained in mediation, or may undertake such mediation themselves at the request of the parties to the conflict. They can also advise staff members on career development issues and on their rights and obligations.[5]

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[3] Located at Intranet un.org/hr_handbook. For staff who do not have access to the Headquarters Intranet, the Handbook has been posted in a password protected area, which the user would have access to by first entering the following address: www.un.org/hr_handbook. At the prompt, users should enter the word: handbook, in both the user name and password fields. More information can be found in ST/IC/2001/15.

[4] Located at http://157.150.196.9/unat/unat_home_refmat.htm, or follow the links under "Reference Material" on the Headquarters Intranet home page.

[5] Attention is also drawn to the Career Resource Centre, located at United Nations Headquarters in room S-2560A, which offers a wide range of career-development services and products.

B. The Ombudsman

10. The Office of the Ombudsman was established in October 2002. Its terms of reference are set out in the Secretary-General's bulletin ST/SGB/2002/12. The ways in which staff can bring matters to the attention of the Ombudsman are described on the Ombudsman's web site.[6]

11. The Ombudsman has the authority to consider conflicts of any nature related to employment by the United Nations that are brought to his or her attention by staff members. The term "conflict" is to be understood in its broadest sense, and the Ombudsman's authority therefore covers, inter alia, matters pertaining to conditions of employment, administration of benefits, managerial practices as well as professional and staff-related matters.

12. The Ombudsman does not have decision-making powers in a conflict, but facilitates conflict resolution, using any appropriate means, including advising the parties and making suggestions or recommendations on actions to settle conflicts. The Ombudsman may also advise staff on other options for conflict resolution, as necessary. He or she may further request an extension of the normal time limit for filing an appeal within the framework of staff rule 111.2.

C. Panels on Discrimination and Other Grievances

13. In its resolution 57/307 of 15 April 2003, the General Assembly requested the Secretary-General, in consultation with the Ombudsman and staff representatives, to submit detailed proposals on the role and work of the Panel on Discrimination and Other Grievances for the consideration of the General Assembly at its fifty-eighth session. Until there is a formal change in mandate, the panels will continue their work under ST/AI/308/Rev.1.

D. Staff Counsellors

14. Staff Counsellors are available at a number of duty stations. Their core functions include providing counselling, information and assistance to staff on issues that may have an impact on their welfare and productivity, such as stress management and conflict resolution. The assistance that can be provided by Staff Counsellors in conflict resolution may range from a simple referral to other offices and general information on options that are available to staff, to sustained efforts in assisting to mediate in a conflict. In particular, Staff Counsellors may provide advice and consultation to staff members in harassment cases as part of efforts to find an informal solution. Action is taken only with the consent of the staff member. For more information and links to official documents, see the Intranet site of the Staff Counsellor's office in New York.[7]

[6] Located at www.un.org/ombudsman.

[7] Located at Intranet.un.org/Counselling.

E. Panel of Counsel

15. The Panel of Counsel is composed of a group of serving and retired staff members who have volunteered to represent their colleagues in various stages of appeals and in disciplinary and other claims. Their work is supported and administered by the Office of the Coordinator, Department of Management, at United Nations Headquarters in New York and by the respective Coordinators at a number of other duty stations. The web site address is http://www.un.org/staff/panelofcounsel.

16. While the Panel of Counsel provides counsel in formal recourse mechanisms, the Coordinator may also be approached for preliminary consultations before initiating the formal appeals process. Seeking the advice of counsel or of the Coordinator of the Panel of Counsel early on may avoid unnecessary litigation and may support an informal resolution at an early stage. The home page of the Panel of Counsel at Headquarters[8] describes the activities of the Panel and provides contact information for staff seeking assistance. It also describes the appeals and disciplinary process in general, with further links to information resources.

F. Departmental focal points for women

Focal Point for Women in the Secretariat (Office of the Special Adviser on Gender Issues and Advancement of Women)

17. The functions of the departmental focal points for women include providing counsel and advice to women on issues affecting their career development or conditions of service, bringing their concerns to the attention of the head of department/office, staff of the Office of Human Resources Management or the local personnel office or Executive Office and staff of the Office of the Special Adviser on Gender Issues and Advancement of Women. The focal points also meet with managers and staff to discuss the full participation of women and men in the work of the department or office. Departmental focal points may also be contacted for advice on informal and formal methods of resolving situations involving harassment. For further information on departmental focal points for women, see ST/SGB/1999/19 of 20 December 1999. Staff members may also contact the Office of the Focal Point for Women in the Office of the Special Adviser directly.

G. Staff representative bodies

18. Staff regulation 8.1 provides for the establishment of staff representative bodies to maintain continuous contact and communication between the Secretary-General and staff at large in order to ensure the effective participation of staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other personnel policies. Staff representative bodies are established at United Nations Headquarters in New York, at the United Nations Offices in Geneva, Vienna and Nairobi and at the headquarters of the regional commissions (Addis Ababa, Bangkok, Beirut and Santiago). International staff serving at missions are represented by the Field Staff Union, which is currently located in Jerusalem. Staff representative bodies may also be

[8] Located at Intranet.un.org/poc/deptpoc.htm.

established at other duty stations, each of which may affiliate with an existing staff representative body.

19. Staff may bring individual cases to the attention of members of the Staff Committee or staff representatives in their office, who can advise on and assist in addressing issues informally or formally. This also applies to cases involving harassment.

H. Members of Joint Appeals Board as facilitators of conciliation[9]

20. Conciliation, like mediation, is a consensual, non-adversarial dispute resolution process. Pursuant to staff rule 111.2 (b), conciliation can be initiated by any party to a dispute in cases where a request for review of a contested administrative decision has already been submitted (see under formal procedures below), but before a panel of the Joint Appeals Board has been established to hear the appeal (see staff rule 111.2 (b) and section III.B of the Rules of Procedure and Guidelines of the Joint Appeals Board at Headquarters). In such cases, a chairperson will provide assistance to reach a conciliatory conclusion of the conflict between the staff member and the official who took the contested decision. If the parties reach an agreement, and if the Secretary-General accepts the result, the case is concluded.

IV. General appeals process

21. The formal appeals process set out in staff regulations 11.1 and 11.2 and staff rules 111.1 and 111.2 is "rights-based". It provides an avenue for any staff member who feels that an administrative decision has been made that has violated the staff member's rights under his or her terms of appointment. In general, this avenue is not suitable for addressing an unsatisfactory situation that is not directly related to a specific administrative decision. To address the latter it is advisable to resort to the informal avenues described in the present circular, if necessary with the assistance of the Ombudsman.

A. Administrative review

22. Once a staff member has identified the appeals avenue as an appropriate means for pursuing the desired result, the first step would be to request an administrative review by writing a letter addressed to the Secretary-General, identifying the contested administrative decision and setting out why, in the view of the staff member, it was wrong. In the interest of speedy resolution, it is advisable to clearly identify the issues and to focus on how the contested decision constituted a violation of the staff member's terms of employment. It is not required that staff members refer to the specific rules at issue, although doing so, where possible, helps to focus the issues. The review stage is a final opportunity for the official who took the contested decision, or the supervisory officials concerned, to review and, as appropriate, rescind or change it. If the official who took the contested decision or the supervisory officials concerned wish to maintain the contested decision, they are requested to explain their decision in writing. These comments are the basis of the

[9] See paragraphs 20 to 24 for the role of the Joint Appeals Board in the formal appeals process.

administration's reply at the review stage, as well as at the appeals stage, should the appeal go forward. The review stage affords the staff member as well as the administration an opportunity to review the issue collaboratively, with a view to resolving the matter at this stage.

B. Appeal to the Joint Appeals Board[10]

23. Should a collaborative resolution or settlement between a staff member and the administration not be possible at the review stage, or should the staff member not receive a response from the Administration within the specified time period, the staff member may file an appeal with the appropriate Joint Appeals Board, either in New York, Geneva, Nairobi or Vienna (see staff rule 111.2 (a) (ii) and (d)). The Administration files the "respondent's reply", again based on the comments provided by the official who took the contested decision or the supervisory officials concerned. The Secretary of the respective Joint Appeals Board convenes a joint panel of three staff members who consider the case and make a recommendation to the Secretary-General. The panel, at its discretion, may invite the official who took the contested decision to explain it at a hearing. The Secretary-General takes the final decision on the appeal in the light of the report of the Joint Appeals Board. As a matter of practice, unanimous recommendations are normally accepted, unless there is a compelling reason of law or policy not to do so. In such a case, those reasons are explained in the decision of the Secretary-General.

C. Application to the United Nations Administrative Tribunal

24. The staff member may appeal the decision of the Secretary-General on the report of the Joint Appeals Board to the United Nations Administrative Tribunal. The Tribunal's judgement on the case is final.[11]

D. Suspension of action

25. Neither a request for administrative review nor the filing of an appeal with the Joint Appeals Board has the effect of suspending action on a contested decision. Under staff rule 111.2 (c), however, the staff member concerned may request a suspension of action of such a decision by writing to the Secretary of the Joint Appeals Board. The Presiding Officer of the Joint Appeals Board will examine the request to ascertain whether the decision in question has not already been implemented and whether it is, in fact, the subject of the appeal. If the request meets these conditions, a Panel will be constituted to consider whether implementation of the decision would directly and irreparably injure the staff member's rights. The underlying appeal against the contested decision will not be considered on its merits

[10] Further information on the Joint Appeals Board in New York and the appeals process, including time limits, a time line and requests for suspension of action, can be found at the web site of the Joint Appeals Board at Headquarters: http://www.un.org/jab.

[11] The statute and the Rules of Procedure of the Tribunal can be found in the *Human Resources Handbook*, and through the Intranet site of the Panel of Counsel (http://www.un.org/staff/panelofcounsel). Judgements of the Administrative Tribunal can be researched through the Official Documents System or through the digest of the United Nations Administrative Tribunal jurisprudence, mentioned above.

during such deliberations. The Secretary-General's decision on the recommendation of the Joint Appeals Board with regard to the suspension of action is not subject to appeal.

E. Assistance of counsel

26. Staff may avail themselves of the assistance of counsel when initiating formal appeals procedures. The Coordinator of the Panel of Counsel will assist in identifying counsel if a staff member so wishes (see paras. 15 and 16 above).

V. Specialized avenues of recourse

27. The following procedures are designed to provide specific recourse in narrowly defined situations.

A. Decisions of organs of the United Nations Joint Staff Pension Fund

28. Section K of the administrative rules of the United Nations Joint Staff Pension Fund (JSPB/G.4/Rev.16 of 1 January 2002, annex I) sets out the method of review and appeal against decisions of various organs of the Pension Fund. A Pension Fund participant or qualifying survivor may initiate a review by stating the points of fact or law that are disputed in respect of the challenged decision. Additional information is available at the web site of the Fund http://www.unjspf.org.

B. Competitive examinations for recruitment to the Professional category of staff members from other categories

29. Section 4.5 of administrative instruction ST/AI/2003/7 provides that staff members who have cause to believe that they have been unfairly excluded from participating in competitive examinations may appeal to the Central Examination Board for review. The Board also reviews complaints from staff members with respect to the procedures and arrangements for the examinations, pursuant to section 8.3 of the administrative instruction.

C. Service-incurred death, injury or illness

30. Pursuant to staff rule 106.4, staff are entitled to compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations. Compensation under this rule is governed by appendix D to the Staff Rules. Staff rule 206.5 contains a similar provision for project personnel. For staff under the 300 series of the Staff Rules, the Secretary-General decides in each case whether to apply the provisions of appendix D or to offer comparable compensation (see staff rule 306.4). Pursuant to article 17 of appendix D, reconsideration of the Secretary-General's determination of the existence of an injury or illness attributable to the performance of official duties, or of the type and degree of disability, may be requested from the Secretary-General.

D. Loss of or damage to personal effects

31. Claims of compensation for loss of or damage to personal effects attributable to the performance of official duties are to be submitted to the Claims Board, established under administrative instruction ST/AI/149/Rev.4. Appeals against administrative decisions taken in respect of such claims can be made through the general appeals procedure outlined above.

E. Medical decisions relating to sick leave

32. Staff rule 106.2 governs the granting of sick leave to staff members who are unable to perform their duties by reasons of illness or injury or whose attendance at work is prevented by public health requirements. Further provisions are contained in administrative instruction ST/AI/1999/12.

33. Where sick leave in excess of the limits established by staff rule 106.2 and the provisions of ST/AI/1999/12 is refused, or where the unused portion of sick leave is withdrawn because the Secretary-General is satisfied that the staff member is able to return to duty, and the staff member disputes that decision, the matter can be referred, at the staff member's request, to an independent practitioner acceptable to both the Medical Director and the staff member, or to a medical board.

F. Classification of posts

34. The classification of posts is governed by administrative instruction ST/AI/1998/9 and Corr.1, which sets out the grounds and procedures for appealing classification decisions, and the terms of reference of Classification Appeals Committees.

35. A staff member who encumbered a post at the time of its classification may appeal the decision on the classification on the ground that the classification standards were incorrectly applied, resulting in a classification at the wrong level. Appeals that are based on new functions that were not the subject of the contested decision are not receivable, nor are appeals that are based exclusively on comparison with other posts without reference as to why the classification decision, on its own merits, would be incorrect. Further recourse against the final decision resulting from the review process outlined in section 6 of ST/AI/1998/9 can be submitted to the Administrative Tribunal.[12]

G. Performance management and appraisal

36. The Performance Appraisal System (PAS) is based upon International Civil Service Commission performance management principles for the United Nations common system, namely work planning, ongoing feedback, a midpoint review and an end-of-cycle appraisal against agreed-upon objectives. The system was designed to improve overall organizational performance by encouraging a high level of

[12] The Administrative Tribunal does not, however, substitute its judgement on the substance of the classification for that of the Secretary-General, and will only examine whether the classification process was vitiated by prejudice, procedural irregularities or other extraneous factors.

involvement and motivation and increased staff participation in the planning and delivery of work by establishing performance expectations in advance, based on mutual understanding between the staff member and first reporting officer on what is to be accomplished during the yearly April-March performance cycle. The PAS links individual work plans with those of the work unit and department or office and sets performance standards using the United Nations competencies, which provide a shared language about what is needed and expected in the Organization. The system promotes communication and continuous feedback between staff members and first reporting officers on the work programme, which forms the basis on which individual performance will be appraised at the end of the yearly cycle. If the staff member disagrees with the rating at the end of the performance cycle, he/she has the option of rebutting the rating.

37. The procedure for rebutting performance ratings is set out in administrative instruction ST/AI/1999/14 (as amended by ST/AI/2001/10) for performance periods up to 1 April 2002, and in administrative instruction ST/AI/2002/3 for performance period following 1 April 2003. For the performance period from 1 April 2002 to 31 March 2003, departments and offices will have elected which of the two administrative instructions govern the performance appraisal system.

38. The performance rating resulting from the rebuttal process is binding on the head of department or office and on the staff member concerned, subject to the ultimate authority of the Secretary-General, who may review the matter as needed on the basis of the record. The rating resulting from an appraisal that has not been rebutted, or from the rebuttal process, is not subject to further appeal.[13]

H. Recourse against disciplinary measures

39. In cases of summary dismissal imposed without prior submission to a Joint Disciplinary Committee, the staff member may, pursuant to staff rule 110.4 (c), request that the summary dismissal be reviewed by such a Committee.[14] Appeals in respect of disciplinary measures considered by a Joint Disciplinary Committee, including summary dismissals after review by such a Committee, may be submitted directly to the Administrative Tribunal.

I. Avenues to deal with harassment

40. Administrative instruction ST/AI/379 defines sexual harassment and sets out informal and formal procedures. The current system is under review, including an extension of special complaint procedures to all cases of harassment. Currently, cases of harassment that are not sexual in nature are addressed in the same way as all other disciplinary cases under ST/AI/371.

[13] The Joint Appeals Board (on the basis of staff rule 111.2 (k)) and the Administrative Tribunal are precluded from considering the substantive question of efficiency of the staff member, meaning that they cannot pass judgement on whether a particular rating was justified or not. They may only assess whether a contested administrative decision which was taken on grounds of inefficiency or relative inefficiency of a staff member was motivated by prejudice or some other extraneous factor.

[14] This request does not have the effect of suspending the measure.